

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

DEBORA D. TANNER, et al.	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No.: 4:11-CV-01361-NAB
	)	
CITY OF SULLIVAN, DON L. REED,	)	
DSN 115, DARRIN M. JONES, DSN 117,	)	
KEVIN L. HALBERT, JEFF ROHRER,	)	
SHAUN HINSON, DAVID ROCHE, and	)	
GEORGE COUNTS,	)	
	)	
Defendants.	)	
	)	

**MOTION TO STRIKE PORTIONS OF CASEY AND JANSSEN AFFIDAVITS  
CONTAINING EXPERT OPINIONS**

COME NOW Plaintiffs, and move the Court to enter its order granting Plaintiffs' Motion to Strike Portions of Casey and Janssen Affidavits Containing Expert Opinions and state:

1. That Defendants attached affidavits of two (2) Sullivan Police Department dispatchers, Teri Casey ("Casey") and Jeri Janssen ("Janssen") to Defendants' Memorandum in Support of Defendants' Motion for Summary Judgment (Doc. # 85).
2. That the Casey and Janssen affidavits are practically identical in substance and form.
3. That the Casey and Janssen affidavits contain expert opinion testimony. (Ex. 1, Casey Aff. ¶¶ 5, 8, 14), (Ex. 2, Janssen Aff. ¶¶ 5, 8, 14).
4. That neither Casey nor Janssen was endorsed as an expert witness in this case. (Ex. 3, Defendants' Amended Response to Plaintiffs' First Interrogatories).

5. That according to this Court's Order (Docket Text Order # 56), Defendants' deadlines to disclose all expert witnesses and expert witness reports was July 9, 2012.

6. That pursuant to Fed.R.Civ.P. 37(c)(1), Defendants are not allowed to use the expert opinion averments to supply evidence on a motion, at a hearing, or at trial. Fed.R.Civ.P. 37(c)(1); *See* Fed.R.Civ.P. 26(a)(2); *See Fu v. Owens*, 622 F.3d 880, 883-884 (8<sup>th</sup> Cir. 2010).

7. That Plaintiffs have no opportunity to respond to the expert opinion averments as discovery has closed and Plaintiffs are unfairly prejudiced.

WHEREFORE, Plaintiffs respectfully request the Court enter its order granting Plaintiffs Motion to Strike Portions of Casey and Janssen Affidavits Containing Expert Opinions.

Respectfully submitted,

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**Certificate of Service**

I hereby certify that a copy of the foregoing was filed electronically with the Clerk of the Court this 31<sup>st</sup> day of October, 2012, to be served electronically by operation of the Court's electronic filing system upon the following:

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/s/ Antoinette T. Schlappizzi